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## PRIOR PROVISIONS

A prior chapter 54, consisting of sections 5401 to 5410, related to performance management and recognition system, prior to repeal by Pub. L. 103-89, §3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

## TREATMENT OF EMPLOYEES COVERED BY PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM AS OF TERMINATION DATE

Pub. L. 103-89, §4, Sept. 30, 1993, 107 Stat. 983, provided that:

“(a) DEFINITIONS.—For purposes of this section—

“(1) the term ‘employee’ means an individual employed by an agency (within the meaning of section 7103(a)(3) of title 5, United States Code);

“(2) the term ‘performance management and recognition system’ means the performance management and recognition system under [former] chapter 54 of title 5, United States Code;

“(3) the term ‘basic pay’ does not include any amount payable under section 302 [set out as a note under section 5304 of this title] or title IV [see Short Title set out in a note under section 5305 of this title] of FEPCA or section 5304 or 5304a of title 5, United States Code;

“(4) the term ‘pay rate’, as used in clauses (iii) through (v) of subsection (c)(2)(B), is used in the same way as such term is used under section 5335(a) of title 5, United States Code; and

“(5) the term ‘FEPCA’ means the Federal Employees Pay Comparability Act of 1990 [section 529 [§§1-412] of Pub. L. 101-509, see Short Title of 1990 Amendment; Rules of Construction note set out under section 5301 of this title] (contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1427)).

“(b) APPLICABILITY.—Notwithstanding section 5332(a)(1) of title 5, United States Code (as amended by section 3(b)(1)(F)), or any other provision of law, the rate of basic pay for an employee covered by the performance management and recognition system on October 31, 1993, shall be determined in accordance with this section so long as such employee continues, without a break in service of more than 3 days, to occupy any position—

“(1) which is in the same grade of the General Schedule, and the same agency, as the position which such employee occupied on October 31, 1993; and

“(2) to which the provisions of [former] chapter 54 of title 5, United States Code (as in effect on October 31, 1993) would apply if such provisions had remained in effect.

“(c) SPECIAL RULES.—

“(1) IN GENERAL.—The rate of basic pay for an employee who is subject to this section shall be the rate payable to such employee on October 31, 1993, subject to paragraph (2).

“(2) ADJUSTMENTS.—Adjustments in the rate of basic pay for an employee who is subject to this section shall be made in accordance with the relevant provisions of title 5, United States Code, or otherwise applicable provisions of law, subject to the following:

“(A) DEEM RATES AND POSITIONS TO BE UNDER THE GENERAL SCHEDULE.—For purposes of applying subchapters I and III of chapter 53 of such title (and the provisions of section 302 [set out as a note under section 5304 of this title] and title IV [see Short Title set out in a note under section 5305 of this title] of FEPCA with respect to any payment under any of those provisions)—

“(i) the rate of basic pay determined under this section for an employee shall be treated as a rate

of basic pay described in section 5302(8) of such title;

“(ii) the position then currently occupied by an employee who is subject to this section shall be deemed to be a ‘General Schedule position’ within the meaning of section 5302(9) of such title; and

“(iii) any employee who is subject to this section shall be considered to be a ‘General Schedule employee’ (as referred to in section 302(b) of FEPCA).

“(B) SPECIAL RULES RELATING TO PROVISIONS GOVERNING STEP-INCREASES.—For purposes of applying the provisions of sections 5335 and 5336 of title 5, United States Code, with respect to any employee who is subject to this section—

“(i) any reference in such provisions to a ‘step-increase’ shall be considered to mean an increase equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade of the General Schedule;

“(ii) any reference in such provisions to the ‘next higher rate within the grade’ shall be considered to mean the rate of basic pay which exceeds such employee’s then current rate of basic pay by the amount of a step-increase;

“(iii) if the employee’s rate of basic pay is less than the rate for pay rate 4 of the applicable grade, such employee’s rate of basic pay shall be governed by paragraph (1) of section 5335(a) of such title;

“(iv) if the employee’s rate of basic pay is equal to or greater than the rate for pay rate 4 but less than the rate for pay rate 7 of the applicable grade, such employee’s rate of basic pay shall be governed by paragraph (2) of section 5335(a) of such title; and

“(v) if the employee’s rate of basic pay is equal to or greater than the rate for pay rate 7 but less than the maximum rate of the applicable grade, such employee’s rate of basic pay shall be governed by paragraph (3) of section 5335(a) of such title.

No rate of basic pay for an employee may be increased, as a result of this subparagraph (or any provision of law to which any clause of this subparagraph relates), if or to the extent that the resulting rate would exceed the maximum rate for the grade of the position occupied by such employee.

“(d) REGULATIONS.—The Office of Personnel Management shall prescribe any regulations which may be necessary for the administration of this section.”

## § 5401. Purpose

The purpose of this chapter is to promote, through the creation of a Human Capital Performance Fund, greater performance in the Federal Government. Monies from the Fund will be used to reward agencies’ highest performing and most valuable employees. This Fund will offer Federal managers a new tool to recognize employee performance that is critical to the achievement of agency missions.

(Added Pub. L. 108-136, div. A, title XI, §1129(a), Nov. 24, 2003, 117 Stat. 1642.)

## PRIOR PROVISIONS

A prior section 5401, added Pub. L. 95-454, title V, §501, Oct. 13, 1978, 92 Stat. 1180; amended Pub. L. 97-346, §2, Oct. 15, 1982, 96 Stat. 1647; Pub. L. 98-615, title II, §201(a), Nov. 8, 1984, 98 Stat. 3208; Pub. L. 102-378, §2(37), Oct. 2, 1992, 106 Stat. 1351, stated purpose of chapter to provide a performance management and recognition system, prior to repeal by Pub. L. 103-89, §3(a)(1), (c), Sept. 30, 1993, 107 Stat. 981, 983, eff. Nov. 1, 1993.

## § 5402. Definitions

For the purpose of this chapter—